

Waste Evaluation and Enforcement Branch Staff Report

Summary of the City of Colton Compliance Review and Consideration of the Issuance of Compliance Order CO 017-001

SUMMARY

The Department of Resources Recycling and Recovery (Department) conducted a review of the City of Colton's (City) implementation of, and compliance with, California's Recycling of Commercial Solid Waste Law, referred to as the Mandatory Commercial Recycling (MCR) law (California Public Resources Code (PRC) sections 42649-42649.7 and California Code of Regulations (CCR) sections 18835-18839). PRC section 42649.3 requires the Department to review whether a jurisdiction has complied with, or made a good faith effort to comply with, the requirements of the MCR law. For purposes of this evaluation, "good faith effort" means all reasonable and feasible efforts by a jurisdiction to implement its MCR program. The evaluation of good faith includes, but is not limited to, the factors found in PRC section 42649.3 (i)((1)-(7)).

Based on the Jurisdiction Compliance Unit (JCU) staff's observations, the following key deficiencies, as well as other details described in the report demonstrate the City has not made a good faith effort to comply with the requirements of the MCR law:

- The City did not implement a commercial solid waste recycling program that was designed to divert commercial solid waste from businesses within the City, which are subject to PRC section 42649.2 and CCR section 18837.
- The City did not provide documentation supporting the efforts it has taken to notify businesses and multi-family complexes of noncompliance with the MCR law (PRC section 42649 (i)(4) and CCR section 18838 (a)(2)).
- The City's Annual Reports for 2012, 2014, and 2015, submitted on or before the August due date, were incomplete regarding implementation of the requirements of the MCR law (PRC section 42649.3 (g) and CCR section 18838 (h)). Follow-up by Local Assistance and Market Development (LAMD) and JCU staff did result in some additional information, however, reporting was still incomplete and did not provide details to support that the City made all reasonable and feasible efforts to implement the following components of their program:
 - Identification
 - Monitoring

Based on JCU staff's review and analysis, JCU staff recommends that a Compliance Order (CO) be issued. As part of the CO, the City would be directed to develop a Local Implementation Plan (LIP). The LIP will identify a strategy for program enhancements, and local actions necessary to enable the City to meet the requirements of the MCR law.

JURISDICTION COMPLIANCE HISTORY

The City does not have any prior CO's, nor has it filed for extensions to improve diversion programs to meet the diversion requirement of PRC 41780.

Based on historical records and previous findings, the City was included in the four-year Jurisdiction Review cycle.

BACKGROUND

Statutory Requirements for Department Review and Enforcement Action

PRC section 42649.3 requires that on and after July 1, 2012, each jurisdiction shall implement a commercial solid waste recycling program appropriate for that jurisdiction designed to divert commercial solid waste from businesses subject to PRC section 42649.2, whether or not the jurisdiction has met the requirements of PRC section 41780. Each jurisdiction is also required to report the progress achieved in implementing the MCR law, including identification, monitoring, education, outreach, and if applicable, enforcement efforts, by providing updates in the Annual Report required by PRC section 41821.

PRC section 42649.3 requires the Department to review whether a jurisdiction has complied with, or made a good faith effort to comply with, the requirements of the MCR law. For purposes of this evaluation, "good faith effort" means all reasonable and feasible efforts by a jurisdiction to implement its commercial recycling program in accordance with the MCR law (PRC section 42649.3 (i)).

Pursuant to PRC section 42649.3 (g), the Department is to review a jurisdiction's compliance with the MCR law as part of the Jurisdiction Review required by PRC section 41825. The Department may also evaluate whether a jurisdiction is in compliance at any time that the Department receives information that the jurisdiction has not implemented, or is not making a good faith effort to implement its commercial recycling program (PRC section 42649.3 (h)).

In determining whether the jurisdiction has made a good faith effort to comply with the requirements of the MCR law, the Department's evaluation may include, but is not limited to, the following factors:

- The extent to which businesses have arranged for recycling services in compliance with PRC Section 42649.2, including information on the amount of disposal that is being diverted from the businesses, if available, and on the number of businesses that are subscribing to recycling services;
- The recovery rate of the commercial waste from the material recovery facilities that are utilized by the businesses;
- The extent to which the jurisdiction is conducting education and outreach to businesses;
- The extent to which the jurisdiction is monitoring businesses, and notifying those businesses that are out of compliance;
- The availability of markets for collected recyclables;
- Budgetary constraints; and
- For rural jurisdictions, the effects of small geographic size, low population density or distance to markets.

The Department is also required to consider the enforcement criteria included in its enforcement policy that was amended and approved in June 2015 (PRC section 41825 (e)(3)).

If the Department determines that the jurisdiction did not comply with, or make a good faith effort to comply with the MCR law, the Department may issue a Compliance Order.

Prior to issuing a notice of intent to issue a Compliance Order, PRC section 41825 (c)(1) requires the Department to confer with the jurisdiction for at least 60 days regarding conditions relating to the proposed order of compliance.

If, after conferring with the jurisdiction, the Department makes a determination that a compliance order should be issued, PRC section 41825 (c)(2) requires the Department to issue a notice of intent to issue a Compliance Order not less than 30 days prior to conducting the hearing to consider issuing the Compliance Order. At any time prior to the hearing, at the hearing, or after the hearing the Department may decide not to commence compliance action if it finds that the jurisdiction has made a good faith effort to implement the MCR law.

Fines of up to \$10,000 per day may be imposed if the provisions of the Compliance Order and schedule are not met by the jurisdiction (PRC section 41850).

The Department's Review Process

LAMD staff's 2012-2015 review determined that the City had gaps in its MCR implementation. Based on this determination, LAMD referred the jurisdiction to JCU for an independent Jurisdictional Review. On March 21, 2017, LAMD notified the City that an independent review of the City's MCR implementation was necessary (Attachment 1). On March 30, 2017, JCU staff initiated the 60-day conferring process required by PRC Section 41825 (Attachment 2).

JCU conducted an independent jurisdictional review, which extensively reviews and analyzes data and documentation to understand a jurisdiction's MCR implementation efforts. The review, included, but was not limited to:

- Communications with the jurisdiction (phone calls, in person meetings, emails, and letters) to learn about the community and the MCR program offered.
- Requesting approval from the jurisdiction to communicate with any of the hauler(s) (whether under contract or not) on behalf of the jurisdiction to obtain records related to, but not limited to, the total number of accounts serviced, and the total tons of collected recyclables and waste from the jurisdiction.
- Commercial cart and bin field evaluations.
- Observing and evaluating a jurisdiction's recycling and waste loads at the material recovery facility(s), transfer station(s), and landfill(s).
- Tracking efforts to amend or award franchise agreements or other contracts that can have an impact on a jurisdiction's implementation of the MCR program.

In March 2017, JCU began its independent review of the City's MCR program implementation, using available information from the City's Annual Reports, Department databases, and communications between the Department and the City. This review focused on the commercial

waste generators (as defined by PRC 42649.1 (c)) and multi-family residential complexes of five units or more and included visits with City staff, the City's hauler, City's facilities, and the Material Recovery Facility.

Concurrently, since May 2017, the City has been conducting site visits to businesses and multi-family complexes to discuss MCR and increase recycling subscription levels, which are discussed below. Upon completion of this report, the City reported additional efforts it has taken to implement its MCR program.

ANALYSIS

Overview of Jurisdiction Demographics and Infrastructure

Existing Jurisdiction Conditions

The City is located in San Bernardino County. According to the 2010 U.S. Census Bureau, the City encompasses approximately 16 square miles. The City has a population of 53,384 (Department of Finance, 2015). According to the jurisdiction's base year history (dated 1999), 63 percent of the City's total waste generation is from the non-residential waste stream.

Summary of City's Solid Waste Infrastructure and Materials Flow

Businesses and multi-family complexes are offered waste bins ranging from one and one-half (1.5) to six (6) cubic yards. Waste collection varies depending on an account's needs. On March 7, 2017, the City approved the Settlement and Release Agreement between Republic Services and the City, which transferred the Franchise Agreement from Republic Services to CR&R. Operating under this Franchise Agreement, CR&R, provides all trash and recyclables collection in the City. CR&R takes all waste and commingled recyclables to the Inland Regional Material Recovery Facility (MRF), located in Colton (this facility is strictly a transfer station). Once received waste is moved into a transfer trailer for transport to Mid Valley Landfill or San Timoteo Landfill. Recyclables are kept separate from waste and moved into a transfer trailer for transport to a facility for further processing. The City did not specify what facility recyclables are taken to for processing.

Findings and Observations of the Jurisdiction's Mandatory Commercial Recycling Program

Below is a detailed analysis of the City's program, and the City's efforts to implement the program, the law and reporting requirements. The analysis includes the program deficiencies, which lead to the determination of good faith effort or lack thereof.

Commercial businesses that generate four (4) cubic yards or more of waste per week, and multi-family complexes of five (5) or more units must comply with the MCR law. Described below are staff's findings of what was found at both commercial businesses, multi-family complexes, and at the solid waste and recycling facilities accepting the materials produced by the jurisdiction. Since multi-family complexes are serviced on the same routes as businesses, the solid waste and recycling facilities analysis reflects what is happening with the MCR waste stream as a whole. JCU staff's field visit photo report (Attachment 3) contains visual documentation of many of the observations detailed below.

Commercial Business Diversion

About the Program and Efforts:

On-Site Collection: The City offers commingled recycling services to businesses. Depending on an account's service needs, three (3) cubic yard bins or 64-gallon carts are offered for recycling. Materials accepted for recycling includes paper (corrugated containers, mixed paper, newspaper, magazines, etc.), metal, glass, and plastics.

Self-Haul: The City did not report any self-hauling options for businesses to recycle.

Recent Efforts by the City:

Since April 2017, the City, working with its hauler, has been conducting site visits to businesses to perform waste audits, inform them of the MCR law, and offer recycling services to those that meet the MCR threshold. Based on documentation supplied by the City, 72 businesses have had waste audits performed by the hauler since May 2017. As a result of the waste audits:

- Eight (8) subscribed to recycling services
- Four (4) reported third party recycling
- 58 are reported as needing follow-up
- Two (2) refused recycling services

Facts and Observations Related to On-Site Commercial Business Recycling Efforts:

- The City reports having 547 commercial solid waste collection accounts. Of these, 288 accounts meet the MCR definition of a business and are required to recycle under the MCR law. Out of 288 accounts that are required to recycle, the City reports 58 accounts are subscribed to recycling services. This is a participation rate of 20.1 percent.
- On JCU's field visit, several locations were evaluated. In total 82 trash bins and 15 recycle bins were observed at commercial businesses (attachment 4).
- During the onsite evaluations staff observed cardboard set off to the side of waste bins at multiple businesses throughout the City, the cardboard was being collected by a third party. The City has not reported third party recycling as being part of its MCR program or otherwise documented this effort by the businesses. Accordingly, JCU staff was not able to determine whether this activity by the businesses had any impact on the City's commercial recycling efforts.
- JCU staff observed three (3) cubic yard recycle bins at different businesses throughout the City. Recycling bins observed varied in color and markings, making it hard at times to discern the difference between recycle and waste bins.
- For those recycling bins that were not clearly identified as recycling JCU staff observed recyclables to have varying levels of contamination. However, for recycling bins that were clearly marked as recycling, contamination was low.
- In 2017, JCU staff further inquired about the City's commercial recycling program. The City responded that accounts have either waste processing to salvage recyclables, or bins are provided for commingled recyclables. As described below in the *Solid Waste and Recycling Facility Facts and Observations* the waste processing reported is not a mixed processing system (dirty MRF processing). The facility operator reported to staff the effort was more of a business practice and not a "program"

offered to jurisdictions

Facts and Observations Related to On-Site Commercial Business Waste Collection:

- JCU observed one and one-half (1.5) to six (6) cubic yard waste bins at different businesses throughout the City. Depending on the location, recyclables observed in waste bins were less than five percent and in other locations staff observed bins containing nearly 100 percent recyclables, most of which was cardboard.

Multi-Family Complex Diversion

About the Program and Efforts:

On-Site Collection: The City offers commingled recycling to multi-family complexes. Depending on an account's service needs, three (3) cubic yard bins or 64-gallon carts are offered to multi-family complexes for recycling. The level and frequency of recycling service varies upon an account's needs. Materials accepted for recycling includes paper (corrugated containers, mixed paper, newspaper, magazines, etc.), metal, glass, and plastics.

Self-Haul: The City did not report any self-hauling options for multi-family complexes to recycle.

Recent Efforts by the City:

Since April 2017, the City, working with its hauler, has been conducting site visits to multi-family complexes to perform waste audits, informing them of MCR, and offer recycling services to those that meet the MCR threshold.

Based on documentation supplied by the City, 30 multi-family complexes have had waste audits performed by the hauler since May 2017. As a result of the waste audits:

- Six (6) subscribed to recycling services
- 24 are reported as needing follow-up

Facts and Observations Related to On-Site Multi-Family Complex Recycling Efforts:

- The City reports having 99 multi-family complexes in the City. Of these, 70 meet the MCR definition of a multi-family complex and are required to recycle under the MCR law. Out of 70 accounts that are required to recycle, the City initially reported to JCU staff that five (5) accounts subscribed to recycling services. In June the City reported six (6) accounts subscribed to recycling services. The City did not specify if the six (6) reported were in addition to the five (5) multi-family accounts initially reported. Based on the data provided, JCU staff calculated the participation rate to be 15.7 percent, based on 11 multi-family accounts.
- On JCU's field visit, several multi-family complexes were evaluated. In total, 47 trash bins and one (1) recycle bin were observed (attachment 4).
- Staff observed significant contamination within the recycling bin.

Facts and Observations Related to On-Site Multi-Family Complex Waste Collection:

Waste bins at multi-family complexes were three (3) cubic yards. JCU staff observed the bins contained approximately 30 percent divertible materials (recyclables and green

waste).

Jurisdiction Compliance with the Notification Requirement of Noncompliant Commercial Businesses and Multi-Family Complexes

As outlined in PRC section 42649.3(d) a jurisdiction's solid waste recycling program shall include education, outreach to, and monitoring of, businesses. A jurisdiction is also required to notify those businesses and multi-family complexes that are not in compliance with PRC section 42649.2. Below outlines the City's efforts to comply with the notification aspect of the MCR law.

Facts and Observations:

- Staff was unable to verify if past notifications were distributed. A request was made of the City for supporting documentation. The City did not provide any documentation regarding efforts made in 2012, 2013, 2014, or 2015 to support implementation of this requirement.
- In 2017, when JCU staff inquired what the City's efforts were in notifying businesses and multi-family complexes, the City responded that a notification plan had been developed. However, at the time this report was prepared, the City had not provided any evidence that the plan had been implemented.

Solid Waste and Recycling Facility Facts and Observations

Commercial businesses and multi-family complexes are not serviced through separate routes, in other words one truck picks up from both locations comingling the materials. This makes it difficult for JCU staff to discern the source of specific materials/contamination within the loads observed at the facility(s).

- Commingled recycle loads were not observed at the MRF, due to the timing of when loads were dumped and when JCU staff was able to be at the facility.
- JCU staff observed waste loads at the Inland Regional Material Recovery Facility containing approximately 30-45 percent recyclables. Although the City reported that waste loads were processed to salvage recyclables, staff did not observe waste loads being processed at this facility, which was operating as a transfer station.
- As part of JCU staff's field observations, staff learned that the transfer station operator worked to pull pockets of recyclables from the waste loads, when feasible, moving them to the side for transfer to another facility for further processing. The facility operator said this was more of a business practice and not a "program" offered to jurisdictions. There was no documentation of these efforts; therefore, JCU staff was unable to determine whether this activity had any impact on the City's MCR efforts.

Conclusions:

The City reported a participation rate of 20.1 percent of businesses and 15.7 percent of multi-family complexes. For March and April of 2017 (the service period of the new hauler), the City reported a commercial recovery rate of 3.53 percent. The recovery rate is based on the haulers tracking of total tons recycled and tons disposed. Furthermore, based on the facts and observations above the City is noncompliant with the notification requirements in 2012-2015. Based on staff's field visit to the City and the data collected and discussed above, the

City has not demonstrated that it has made all reasonable and feasible efforts to implement a program designed to recycle commercial waste from businesses or from multi-family complexes subject to the MCR law.

Jurisdiction Compliance with the Annual Reporting Requirement

Pursuant to PRC section 42649.3 (g) and CCR section 18838 (h) each jurisdiction is required to report the progress achieved in implementing the MCR law, including identification, monitoring, education, outreach, and if applicable, enforcement efforts. PRC section 42649.3 (g) requires the jurisdiction to include its progress in the Annual Report required by PRC section 41821. Below is a detailed analysis of the City's reporting efforts and includes reporting deficiencies which lead to the Department's determination of good faith effort or lack thereof.

Summary: JCU conducted an analysis of the City's 2012, 2013, 2014, and 2015 Annual Reports and prepared a chart of its findings regarding the information reported in the City's Annual Reports for the years covered by this review. The 2016 Annual Report is currently under review by LAMD and was not considered in this staff report.

	Review Period				Additional Data
	2012	2013	2014	2015	2017**
Total Businesses	589*				547
MCR Businesses	Not reported	326	Not reported	Not reported	288
MCR Businesses Recycling	282	326	Not reported	Not reported	58
MCR Businesses Not Recycling	243	0	Not reported	Not reported	230
Total Multi-Family					99
MCR Multi-Family	26	67	Not reported	Not reported	70
MCR Multi-Family Recycling	0	67	Not reported	Not reported	5
MCR Multi-Family Not Recycling	26	0	Not reported	Not reported	65

* This information is not required.

**2017 data reflects the data reported by the City in response to JCU's inquiry.

- **Identification**

A jurisdiction is required to identify businesses that dispose of four (4) or more cubic yards of commercial solid waste per week and multi-family residential complexes of five (5) units or more (CCR section 18838 (a)(2)). The jurisdiction must report its progress in identifying these businesses in its Annual Report. As indicated by the above chart:

- The City identified the total number of commercial businesses and multi-family complexes subject to the MCR law serviced by the franchise hauler in 2012 and 2013. However, the number of businesses identified is inconsistent, which raises concern over the validity of the data reported. The City has stated that they have had minimal resources and support from the previous hauler, which affected the data reported. On

- November 27, 2013, LAMD staff notes indicate the City reported, via e-mail regarding the 2012 Annual Report, that there were 11 multi-family complexes recycling.
- The City did not identify any commercial businesses and multi-family complexes subject to the MCR law serviced by the franchise hauler in 2014 and 2015. The City has stated that they have had minimal resources and support from the previous hauler, which affected the submittal of this data.
 - As part of JCU's request for data on the jurisdiction's 2017 MCR program efforts, the City provided documentation of identification of businesses and multi-family complexes; however, JCU was unable to evaluate the accuracy of this information.
- **Monitoring**
A jurisdiction is also required to monitor businesses and multi-family complexes subject to the MCR law to determine whether they are recycling (CCR section 18838 (a)(2)) and report on those efforts in the Annual Report.
 - The City did not report any monitoring efforts in its Annual Reports for 2012-2015. The City explained that this failure to report was due to limited City resources and minimal support from its previous hauler.
 - JCU staff was not able to determine whether monitoring data was utilized in notifying those businesses and multi-family complexes that were out of compliance.
 - In 2017, when JCU inquired about monitoring, the City reported that the hauler has a plan to provide information detailing site visits with customers, proposals sent to customers, copies of brochures and outreach materials sent and the number of accounts that are recycling. This information will assist the City in monitoring program effectiveness. In addition, the hauler will provide a listing of accounts, and the above information to the City at monthly meetings. As of the date this staff report was prepared, JCU was not provided with any information to verify whether the City has implemented these efforts.
 - **Education and Outreach**
About the Efforts:
The City reported on print, direct contact, and electronic education and outreach for MCR.

Facts and Observations:
The City reported the following education and outreach efforts in its Annual Reports:
 - In 2012 the City reported:
 - MCR letter mailed to commercial accounts within the City.
 - City and hauler websites updated with MCR information.
 - City, working with their hauler, called and met with commercial customers to solicit participation in the MCR program.
 - In 2013 the City reported:
 - MCR brochure mailed to commercial accounts within the City.
 - City, working with their hauler, called and met with commercial customers to

- solicit participation in the MCR program.
- Utilizing Facebook to educate on MCR.
- City utilized the Department's MCR digital slides for the City television channel.
- E-posters (digital flat screen) at City Hall being used to educate on MCR.
- In 2014 the City reported:
 - MCR letter sent to MCR businesses.
 - City utilized the Department's MCR digital slides for the City television channel.
 - Chronicle News printed MCR article informing businesses and multi-family complexes on recycling services and opportunities.
 - Nine (9) waste assessments being completed.
 - Electronic education for MCR on City, hauler, and Facebook websites.
 - MCR messaging included with invoices for waste services.
- In 2015 the City reported:
 - MCR promoted on City website, newsletters, Chamber meetings, and community events.
 - MCR educational materials in place at all City offices.
 - MCR educational materials are mailed to commercial accounts.
- In 2017, when JCU inquired on education and outreach efforts, the City reported:
 - Bilingual materials outlining regulation and available programs including brochures, flyers, and proposals will be distributed through invoices, direct mail, available on the website, and given out at in-person visits. These brochures are also available at City facilities, and during special events.
 - At the time this report was prepared, during JCU's field visit, JCU did not find the educational materials available for mandatory commercial recycling in the City's Civic Center.
- **Enforcement (Optional)**

Although the City indicated that it had a Commercial Recycling Ordinance, it did not respond to staff's request for a copy of the ordinance. Furthermore, the City did not indicate in its Annual Reports for 2012, 2013, 2014, and 2015 that it had elected to include enforcement in its MCR program. Accordingly, JCU has not considered enforcement in its analysis.

Conclusion:

Based upon the facts and observations above, the City has not made all reasonable and feasible efforts to identify, monitor, and did not report complete and accurate information on an annual basis regarding the businesses and multi-family complexes that are subject to the MCR law:

Based on the facts and observations above the City has complied with the education and outreach reporting requirements for 2012-2015.

In addition to the observations and conclusions described above, the Department also evaluated

the factors in PRC section 42649.3 (i)(1)-(7)¹. The following is a summary of staff's analysis of the factors, and the City's efforts:

PRC section 42649.3 (i)(1)-(7) Factor	Staff's Consideration	Staff's Finding
(1) Extent to which businesses have complied with PRC section 42649.2, including information on amount of disposal being diverted (if available) and the number of businesses that are subscribing to service.	For 2017, the City reports a participation rate for businesses to be 20.1 percent and for multi-family complexes 15.7 percent.	Does not demonstrate good faith effort.
(2) The recovery rate from the material recovery facilities that are utilized by the businesses.	JCU staff was not able to obtain the recovery rate from material recovery facilities utilized by the City's businesses.	Is not a consideration.
(3) The extent to which the jurisdiction is conducting education and outreach.	The City has provided adequate documentation supporting its efforts to provide education and outreach to covered businesses.	Supports a demonstration of good faith effort.
(4) The extent to which the jurisdiction is monitoring businesses, and notifying those businesses that are out of compliance.	The City has not provided documentation supporting the efforts taken to implement monitoring and notifying those businesses that are out of compliance.	Does not demonstrate good faith effort.
(5) The availability of markets for collected recyclables.	The City is located in a metropolitan area and is not limited by geography or infrastructure to markets any more than other urban jurisdictions in the State.	Is not a consideration.
(6) Budgetary constraints (Note: PRC section 42649.6 allows a jurisdiction to charge and collect a fee from a commercial waste generator in order to recover the jurisdiction's cost incurred in complying with MCR).	The City has not reported any failed efforts to charge and collect a fee from commercial waste generators.	Is not a consideration.
(7) In the case of a rural jurisdiction,	The City is not a rural community.	Is not a consideration.

¹ In determining whether the City made a good faith effort to implement its selected commercial recycling program, the Department may consider, but is not limited to, the factors presented in PRC section 42649.3 (i)(1)-(7).

the effects of small geographic size, low population density, or distance to markets		
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Communications and Notification History

March 24, 2017, LAMD notified the City that an independent review of the City's waste management programs was necessary (Attachment 1).

March 30, 2017, JCU staff initiated the 60-day conferring process required by PRC Section 41825 (Attachment 2).

October 13, 2017, the Department mailed the 30-Day Notice of Intent to Issue the City of Colton a Compliance Order for Failure to Implement the Mandatory Commercial Recycling (MCR) law (Attachment 5).

Findings

Based on a review of the City's MCR program and reporting, JCU staff finds that the City has not demonstrated that it has made all reasonable and feasible efforts to comply with the requirements of the MCR law (PRC 42649, et al.). In summary:

- The City did not implement a commercial solid waste recycling program that is designed to divert commercial solid waste from businesses subject to PRC section 42649.2. Staff found a lack of recycling bins present at MCR businesses and multi-family complexes, substantial recyclables mixed in with the waste collected, and a lack of documentation to support other efforts as discussed within this analysis.
- The City did not provide supporting documentation that it had notified businesses and multi-family complexes of their noncompliance with the MCR law.
- The City's Annual Reports for 2012, 2014, and 2015, submitted on or before the August due date, were incomplete regarding implementation of the requirements of the MCR law. Follow-up inquiries by LAMD and JCU staff did result in some additional information, however, reporting was still incomplete and did not provide details to support that the City made all reasonable and feasible efforts to implement the following components of their program:
 - Identification
 - Monitoring

Options for Consideration

1. Find that the City is not complying with the MCR law as noted above and,
 - a. Approve the attached Compliance Order as written, or
 - b. Approve the attached Compliance Order with alternate or additional language or conditions.
2. Find that the City has achieved a Good Faith Effort and is adequately complying with the MCR law and not issue the attached Compliance Order.
3. Find that the City is in compliance with the MCR law and not issue the attached Compliance Order.

Staff Recommendation

Department staff recommends Option 1: Find that the City is not complying with the MCR law and approve the attached Compliance Order as written. This recommendation is based on the findings presented within this report, which support that the City of Colton has not complied with, or made a good faith effort to comply with, the MCR law.

The proposed Compliance Order CO (017-001) (Attachment 6) includes the following conditions and implementation schedule:

- The City shall work with Department staff to determine the MCR gaps and develop a Local Implementation Plan (LIP) to improve, expand, or implement new MCR programs and/or efforts.
- The City shall develop and submit to the Department a fully executed LIP by January 31, 2018.
- The City will fully implement the programs and/or efforts in the LIP by June 30, 2018.
- A monitoring/“oversight” period from July 1, 2018 through December 31, 2018. The Department uses this time to ensure the City has continued implementation of the programs identified in the LIP.
- The City will submit quarterly status reports based on the calendar year. These status reports shall use the Department’s electronic reporting format. The City will also attach any required documentation necessary to support their efforts to implement the LIP and Compliance Order.

The Compliance Order requires the Department to hold a public hearing following the term of the compliance schedule to determine whether the City has complied with all of the conditions of the Compliance Order.

The Compliance Order specifies that, at any time, any failure of the City of Colton to comply with any part of the Compliance Order may result in an earlier public hearing and fines of up to \$10,000 per day. Likewise, a public hearing could be scheduled earlier if the City complies with the Compliance Order ahead of schedule.

ATTACHMENTS

1. March 24, 2017, LAMD notified the City that an independent review of the City’s commercial waste management program was necessary
2. March 30, 2017, City of Colton’s Notice of 60-Day Conferring Period for Potential Compliance Enforcement
3. Photo Report for the City of Colton
4. June 2017, Map of Field Visit Data
5. October 13, 2017, 30-Day Notice of Intent to Issue the City of Colton a Compliance Order for Failure to Adequately Implement and meet the Requirements of the Mandatory Commercial Recycling Law
6. Proposed Compliance Order CO 017-001
7. Request for Action for Consideration of the Issuance of Compliance Order CO 017-001 to the City of Colton

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